

Disability Insurance Program Rules & Regulations

Proposed Revisions Effective September 1, 2017

(New Language in Purple)

A. Section 16.0 LTD Benefit Payment

To assist with the timely collection of overpaid STD wages from LTD beneficiaries, we are implementing a new provision to allow for repayment to the State by The Hartford of any STD overpayments before a (current or former) employee is eligible for or receives LTD benefits. The claimant's LTD benefit will be offset/withheld until any STD overpayment is recovered and repaid to the State. For this reason, we recommend the addition of the following language to the DIP Rules & Regulations:

16.7 If the State of Delaware notifies the DIP insurance carrier and/or administrator that a claimant receiving LTD benefits has been overpaid STD benefits, the DIP insurance carrier and/or administrator shall make any LTD payments that it would otherwise pay to the claimant directly to the State of Delaware until the State of Delaware has been paid in full for the claimant's overpaid STD benefits.

Background & Challenges

- In general, the Statewide Benefits Office is made aware of STD wage overpayments by The Hartford as the leading cause of STD overpayments is retroactive awards from other programs, such as Workers' Compensation (WC) and/or Social Security Disability (SSD). Overpayments caused by clerical errors would have to be brought to SBO's attention by the employing organization and/or the member.
- Employees are required to sign the attached Employee Acknowledgement (Exhibit A) when initiating an STD claim with The Hartford. Once the Employee Acknowledgement is signed and returned, it is to be maintained by the HR department.
- The majority of LTD beneficiaries are terminated individuals, pursuant to 29 Del.C. §5253 (c)(5), who may have been overpaid STD wages as a result of a retroactive WC and/or SSD award.
- WC and SSD awards are also an offset to LTD wages and if the LTD claim is open, The Hartford will withhold future LTD benefits until the LTD overpayment is satisfied. This process is described in the LTD booklet posted on SBO's website at www.ben.omb.delaware.gov/disability. Language reads:

“Overpayment Recovery: *How does the Company exercise the right to recover overpayments?*

We have the right to recover from You any amount that We determine to be an overpayment. You have the obligation to refund to Us any such amount. Our rights and Your obligations in

this regard may also be set forth in the reimbursement agreement You will be required to sign when You become eligible for benefits under The Policy.

If benefits are overpaid on any claim, You must reimburse Us within 30 days.

If reimbursement is not made in a timely manner, We have the right to:

- 1) recover such overpayments from:
 - a) You;
 - b) any other organization;
 - c) any other insurance company;
 - d) any other person to or for whom payment was made; and
 - e) Your estate;
 - 2) reduce or offset against any future benefits payable to You or Your survivors, including the Minimum Monthly Benefit, until full reimbursement is made. Payments may continue when the overpayment has been recovered;
 - 3) refer Your unpaid balance to a collection agency; and
 - 4) pursue and enforce all legal and equitable rights in court.”
- Initial retroactive WC and/or SSD award checks issued by PMA (WC vendor) and/or the Social Security Administration are lump sum checks covering multiple months so the member is made “whole” immediately.
 - LTD beneficiaries are individuals who are experiencing a long term illness and/or recovery period and as expected, are not as responsive to post-employment requests from the State.
 - Since inception of our current overpayment recoupment process in October 2016, the PCG has approved a total amount \$74,986.93 in overpaid wages from 18 LTD beneficiaries and the total amount repaid to date equals \$12,382.47 (17%).

Proposed Process

Disability benefits are considered wages by the IRS and the Statewide Benefits Office adopted the wage recoupment practices established by the Department of Finance Payroll Compliance Group (PCG), posted on their website at http://accounting.delaware.gov/payroll_comp.shtml so the organizations follow one set of recoupment of overpaid wage processes.

The Employee Acknowledgement will be *updated to include appropriate language* advising that the DIP insurance carrier and/or administrator shall make any LTD payments that it would otherwise pay to the claimant directly to the State of Delaware until the State of Delaware has been paid in full for the claimant’s overpaid STD benefits if the overpayment is caused by a retroactive WC and/or SSD award.

Here are the steps and timeline we propose to implement with this process:

Step 1.

The Statewide Benefits Office will work with the organization, the Insurance Coverage Office (ICO) and the PCG to calculate overpaid wages that include overpaid STD wages caused by any reason, including clerical errors.

Overpayments Caused by Retroactive WC and/or SSD awards**Step 2.**

Once the PCG approves the overpaid wage amount, the employing organization will be instructed to meet with the employee to discuss repayment options that require The Hartford to make any LTD payments that it would otherwise pay to the claimant directly to the State of Delaware until the State of Delaware has been paid in full for the claimant's overpaid STD benefits. *Additional* overpaid wages (i.e., annual leave, sick leave, donated leave etc.,) owed to the State by the LTD beneficiary must be paid by the LTD beneficiary directly to the State and the terms of the repayment negotiated by the employing organization with the member.

The wage recoupment process will initiate when The Hartford is advised of the member's WC and/or SSD award and should take approximately 2 weeks to complete, from start to finish.

Overpayments Caused by Other Reasons**Step 2.**

Overpaid STD wages can also occur as a result of a change to the benefit start date of a claim, or a member returning to work earlier than anticipated or the retroactive award of private automobile personal injury protection (PIP) benefits. Once the PCG approves the overpaid wage amount, the employing organization will be instructed to meet with the employee to discuss repayment *options* that include having The Hartford make any LTD payments that it would otherwise pay to the claimant directly to the State of Delaware until the State of Delaware has been paid in full for the claimant's overpaid wages, including STD benefits. *Additional* overpaid wages (i.e., annual leave, sick leave, donated leave etc.,) owed to the State by the LTD beneficiary must be paid by the LTD beneficiary directly to the State and the terms of the repayment negotiated by the employing organization with the member.